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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

J THOMPSON, et al., Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,
vs.

1-800 CONTACTS, INC., et al.,

Defendants.

) No. 2:16-cv-01183
)
) CLASS ACTION
) Judge Tena Campbell
) Magistrate Judge Dustin B. Pead
)
) PLAINTIFFS' **UNOPPOSED**
) APPLICATION FOR LEAVE TO FILE
) OVERLENGTH MEMORANDUM IN
) SUPPORT OF PRELIMINARY APPROVAL
) OF SETTLEMENT AGREEMENT WITH
) ARLINGTON CONTACT LENS SERVICE,
) INC. AND NATIONAL VISION, INC.

Pursuant to DUCiv.R. 7-1(e), plaintiffs J Thompson, Iysha Abed, Daniel J. Bartolucci, Alexa Bean, William P. Duncanson, Tyler Nance, Leia Pinto, Jill Schulson, and Edward Ungvarsky (“plaintiffs”) file this motion for leave to extend the page limits of Local Rule DUCiv. 7-1(a)(3)(B) for plaintiffs’ motion for preliminary approval of a settlement agreement with defendants Arlington Contact Lens Service, Inc. (“AC Lens”) and National Vision, Inc. (“NVI”; together with AC Lens, “NVI/AC Lens”). Because they cannot present all material the Court must consider to approve the settlement, plaintiffs seek leave to file a motion not to exceed 20 pages. Plaintiffs offer the following as good cause in support of their request:

1. On July 13, 2017, Interim Lead Counsel submitted a notice on behalf of named plaintiffs and the proposed Class as well as on behalf of defendants NVI/AC Lens, stating that plaintiffs and NVI/AC Lens had reached a settlement to resolve all claims brought by plaintiffs and the proposed Class against defendants NVI/AC Lens. *See* Dkt. No. 96. That notice indicated that the parties would prepare and file a settlement agreement and motion for preliminary approval. *Id.*

2. Since then, plaintiffs and NVI/AC Lens have worked diligently to prepare a long-form agreement setting forth the terms of the settlement. The parties have finalized and executed the long-form agreement. Accordingly, plaintiffs have prepared their motion pursuant to Fed. R. Civ. P. 23 for preliminary approval of the settlement agreement between plaintiffs and NVI/AC Lens, which is filed concurrently herewith. Pursuant to Local Rule DUCiv.R. 7-1(a)(3)(B), plaintiffs’ motion for preliminary approval cannot exceed 10 pages in length.

3. Under Local Rule DUCiv.R. 7-1(e), “[i]f a motion or memorandum is to exceed the page limitations set forth in this rule, leave of court must be obtained.” Plaintiffs respectfully request that the page limit for their motion for preliminary approval of settlement be enlarged from 10 pages to 20 pages.

4. Plaintiffs have good cause for this request. Plaintiffs' motion will explain the key settlement terms and set forth the reasons why the settlement meets the standard for preliminary approval. There are also substantial procedural requirements plaintiffs must address pursuant to Fed. R. Civ. P. 23 in support of their motion for preliminary approval, including discussing the nature of negotiations, the benefit to the Class of immediate recovery, and an analysis of relevant questions as to law and fact. In addition, the motion explains the steps necessary for plaintiffs to provide notice to the class and prepare a plan of distribution.

5. Plaintiffs' motion will also demonstrate that certification of a proposed settlement class is justified, and that the numerosity, commonality, typicality, and adequacy requirements for certification under Fed. R. Civ. P. 23(a) are satisfied. Plaintiffs' motion for preliminary approval will also demonstrate that questions of law and fact predominate over individualized issues, and that a class action is a superior method of resolving this controversy as required by Fed. R. Civ. P. 23(b). Given the importance of achieving preliminary approval of a class action settlement, plaintiffs need 20 pages to fully address these requirements.

6. Prior to filing this motion, counsel for plaintiffs conferred with counsel for defendants 1-800 Contacts, Inc., Vision Direct, Inc., Walgreens Boots Alliance, Inc., Walgreen Co., and Luxottica Retail North America Inc. ("the Non-Settling Defendants"). The Non-Settling Defendants do not oppose this motion.

7. Accordingly, plaintiffs seek leave to extend the page limit for their motion for preliminary approval of settlement agreement with NVI/AC Lens from 10 pages to 20 pages.

DATED: September 25, 2017

Respectfully submitted,

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**Pro Hac Vice application forthcoming.*

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2017, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 25, 2017.

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